



North Carolina Department of Health and Human Services
Division of Budget and Analysis
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Michael F. Easley, Governor
Dempsey Benton, Secretary

James B. Slate, Jr., Director

September 19, 2007

MEMORANDUM 2007-09

TO: Division Directors
Office Directors
Division Budget Officers

FROM: Jim Slate 

SUBJECT: Procedures for Disbursement of SFY 2007-08 Special Appropriations

The attached materials and associated instructions are being provided to you so that all divisions of the Department of Health and Human Services can implement disbursement procedures for Special Appropriations in a consistent manner. During the 2007 legislative session, General Statute language governing the use of funds by non-state entities in section GS 143-6.2. was repealed and recodified in GS 143C-6-22 and 143C-6-23. Changes in the language were primarily technical in nature. Therefore the guidance for how to administer special appropriations remains mostly unchanged from procedures used over the previous two state fiscal years.

Definition of Special Appropriations

Pursuant to 09 NCAC 03M.102, "Special Appropriation" means a legislative act authorizing the expenditure of a designed amount of public funds for a specific purpose. Identification of funding to be treated as a Special Appropriation is directly linked to the language of the appropriations bills ratified by the 2007 General Assembly. When the General Assembly identifies by name the local government or non-profit organization within an appropriations bill, these funds are considered to be a Special Appropriation. Funds appropriated to a division within DHHS without naming the recipient will be presumed to be awarded based on that division's management decision and not considered a Special Appropriation.

Notwithstanding these designations as defined above, DHHS policy stipulates that any Special Appropriation that has been in place for more than 3 years to the same entity will not be considered a Special Appropriation for purposes of contracting requirements. In these instances all standard DHHS contracts requirements will also apply.

A listing of Special Appropriations Recipients for SFY 2007-08 as authorized by the 2007 Session of the General Assembly in House Bill 1473, including Joint Conference Committee reports on the Continuation, Expansion and Capital Budgets for these respective bills, is provided with this memorandum as **Attachment 1**.

Notifying/Obtaining Required Information

Notification of the agency to receive the Special Appropriation should be made by letter. This letter should indicate the requirements that the agency must meet in order to receive the funds. All the requirements are listed below under the heading “Requirements of Agency Receiving Special Appropriation”. Sample letters are provided for both *non-governmental* and *governmental* entities as **Attachments 2A and 2B**. Sample forms to be completed by the contractor are also included. Copies of G.S. 143-6-21 through G.S. 143-6-23 and N.C. Administrative Code 03M have also been provided for your reference and should be included in your notification transmittal to recipients.

Disbursing/Financial Requirements

If the Special Appropriation does not exceed \$100,000, payment to the recipient is made in a lump sum. Once the information included in the “Requirements of Agency” section is met and a contract is executed, the full disbursement is to be made. A letter of disbursement should accompany the payment, explaining all reporting and spending requirements. Special Appropriations greater than \$100,000 shall be disbursed in quarterly payments. The payment schedule for these recipients should be stated in the first disbursement letter, and the letter should also include all reporting and spending requirements. Financial reporting and auditing requirements are contingent upon the aggregate amount of state funds received by the Special Appropriations recipient. An overview of these requirements is also provided for your reference and should be included in your notification transmittal to recipients.

Requirements of Agency Receiving Special Appropriation

All *non-governmental* entities who receive Special Appropriations, regardless of amount, are required to submit the following items:

- 1) Supplemental grantee information.
- 2) Documentation of the organization’s tax exempt status or 501(c)(3), if applicable.
- 3) The organization’s articles of incorporation and by-laws, trust indenture, partnership agreement, etc.
- 4) List of Board of Directors/Trustees and Officers.
- 5) Attachment B – Scope of Work.
- 6) Attachment C – Line Item Budget.
- 7) Attachment D – Organization’s policy addressing conflict of interest.
- 8) Attachment E – Statement of Overdue Tax Debt.
- 9) A completed Vendor Electronic Payment form.

All *governmental* entities who receive Special Appropriations, regardless of the amount, are required to submit items 1, 5, 6, and 9 listed above.

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Disbursements cannot be made until all of the required information is received and the contract has been executed. Once the required forms are received from the recipient, please contact the DHHS Office of Procurement and Contract Services (OCPS). The attached forms will be incorporated into a contract agreement to be executed between DHHS and the Special Appropriations recipient. OCPS will be able provide with you the contract template and additional forms needed to execute a final contract. When the contract is executed, send the Special Appropriation Payment Request for to the Controller's Office.

Program Reporting and Monitoring

The requirements for program reporting and monitoring for the division/Department as well as for various state management agencies are spelled out in 09 NCAC 03M. 0704. Please read this section of the administrative code carefully. Agencies are charged with ensuring oversight and monitoring of grantees and sub-grantees to prevent misuse of State funds and to assure compliance with applicable requirements and performance expectations.

Special appropriations do not need to be encumbered in NCAS; however, they do need to be entered into the Department Contract System. As has been the practice in the past, Special Appropriations should be designated with a contract number beginning with the number 3 (instead of 5). Additionally the "Special Appropriation" box on the contracts entry screen should be marked "yes".

Questions or concerns about how to properly disburse and monitor the use of Special Appropriations should be directed to your analyst in the Division of Budget and Analysis. Questions about technical reporting requirements may be directed to DHHS Controller Laketha Miller.

JBSjr:gg

Attachments

(To facilitate use of electronic versions of these forms, attachments fall into three categories based on file type as listed below.)

- **Memorandum 2007-09** - This file is in Adobe format – includes attachments 1, 2A, 2B Reporting Requirements of NCGS 143C-6.23, NCGS § 43C-6-21 through 23, and NCAC 03M.
- **MS Word 2007-9A** – Supplementary Grant Information, Attachments B, D, E and G, Vendor Electronic Payment Form, and Special Appropriation Payment Letter.
- **MS Excel 2007-9B** – Attachment C.

cc: Dempsey Benton
Dan Stewart
Jackie Sheppard
Jennifer Hoffman
Laketha Miller
Curtis Crouch
Rob Kindsvatter

DHHS Budget Analysts

DHHS Special Appropriations from the 2007 Long Session					
Division	Cert. Ref. Number	Specified Contractor	Amount Appropriated	Recurring / Non-Recurring	Year
CMS	05-0153	Food Runners/ Meals on Wheels Collaborative	\$150,000	R	3rd
CMS	05-0155	ALS Association - Catfish Hunter	\$400,000	R	3rd
CMS	07-2011	North Carolina Association for Health Care Access	\$250,000	NR	1st
CMS	07-2020	Institute of Medical Studies	\$300,000	R	1st
DSS	07-2076	NC State Education Assistance Authority	\$50,000	R	1st
DSS	07-2080	Child Advocacy Centers (listed below):	\$250,000	R	3rd
DSS	07-2080	Kids First Inc			
DSS	07-2080	Crossroads: Sexual Assault Response & Resource Ctr. (Child Advocacy Center)			
DSS	07-2080	Kids Inter-Disciplinary Services, Inc			
DSS	07-2080	Adults Working & Advocacy For Kids Empowerment			
DSS	07-2080	The Healing Place			
DSS	07-2080	Children's Advocacy Center of Catawba County Inc.			
DSS	07-2080	Southmountain Children & Family Services			
DSS	07-2080	ECU DBA Tedi Bear			
DSS	07-2080	Family Service of the Piedmont Inc			
DSS	07-2080	Dove House Children's Advocacy Center			
DSS	07-2080	Kids Advocacy Resource Effort			
DSS	07-2080	Family Services Inc.			
DSS	07-2080	Heart to Heart - Cherokee			
DSS	07-2080	Family Resources of Rutherford County			
DMH	07-2126	NC Council of Community Programs	\$60,000	NR	1st
DHHS, Budget & Analysis - September, 2007					

RE:

Dear:

The 200X Session of the General Assembly has appropriated \$ **amount of award** to our division for your organization. The funds are to be utilized for **(cite exact language in money report and/or special provision)**. In order for our Division to implement this award in compliance with the G.S. 143C-6-21 through G.S. 143C-6-23, other applicable laws, rules and regulations, there are certain required information that we must request. This information will be used to develop a contract as currently required under the Office of State Budget and Management rules. We are requesting that you provide the information listed below and complete the attached forms. *The items needed from your organization for development of a contract are:*

1. **Supplemental Grantee information**
2. **Attachment B – Scope of Work**
3. **Attachment C – The line item budget**
4. **A completed Vendor Electronic Payment form.**

Please return this information to our office at the following address:

**Division of
Department of Health and Human Services
Mail Service Center
Raleigh, N.C. 27699-
ATTN:**

Included for your information are copies of Senate Bill 1473 (Session Law 2007-323) and G.S. 143C-6-21 through G.S.143C-6-23.

Upon receipt of this information, we will review the information and inform you of our acceptance of it or deficiencies remaining. If all documentation is acceptable and complete we will develop a contract for your signature. We will initiate the payment process when we have received the signed contract. Payments for grant awards under \$100,000 will be issued for the full amount of the grant award. Payments for grant awards over \$100,000 will be issued quarterly unless otherwise advised. ***It is our expectation that the contract period will begin July 1, 200X and end June 30, 200X, if this is problematic please identify the issues and a proposed ending date of the contract.*** If you have any questions, please contact **NAME** at 919-**Number** or by e-mail to **e-mail address**. Thank you.

Sincerely,

Attachments G.S. 143C-6-21 through G.S. 143C-6-23
N.C. Administrative Code 09 NCAC 03M

RE:

Dear:

The 200~~X~~ Session of the General Assembly has appropriated \$ **amount of award** to our division for your organization. The funds are to be utilized for **(cite exact language in money report and/or special provision)**. In order for our Division to implement this award in compliance with the G.S. 143C-6-21 through G.S. 143C-6-23, other applicable laws, rules and regulations, there are certain required information that we must request. This information will be used to develop a contract as currently required under the Office of State Budget and Management rules. We are requesting that you provide the information listed below and complete the attached forms. *The items needed from your organization for development of a contract are:*

1. **Supplemental Grantee information**
2. **Documentation of the organization's tax exempt status or 501 (c) (3), if applicable.**
3. **The organization's articles of incorporation and by-laws, trust indenture, partnership agreement, etc.**
4. **List of Board of Directors/Trustees and Officers.**
5. **Attachment B – Scope of Work**
6. **Attachment C – The line item budget**
7. **Attachment D - Organization's policy addressing conflict of interest**
8. **Attachment E – Statement of Overdue Tax Debt**
9. **A completed Vendor Electronic Payment form.**

Please return this information to our office at the following address:

**Division of Budget and Analysis
Department of Health and Human Services
Mail Service Center 2001
Raleigh, N.C. 27699-2001
ATTN:**

Included for your information are copies of Senate Bill 1473 (Session Law 2007-323), G.S. 143C-6-22 through 143C-6-23, N.C. Administrative Code 09 NCAC 03M, and examples of the reporting forms issued by the Office of the State Auditor for disbursements in 2006-2007.

(If the one page handout is used, replace the last phrase with, "summary of the reporting requirements".)

Upon receipt of this information, we will review the information and inform you of our acceptance of it or deficiencies remaining. If all documentation is acceptable and complete we will develop a contract for your signature. We will initiate the payment process when we have received the signed contract. Payments for grant awards under \$100,000 will be issued for the full amount of the grant award. Payments for grant awards over \$100,000 will be issued quarterly unless otherwise advised. ***It is our expectation that the contract period will begin July 1, 200~~X~~ and end June 30, 200~~X~~, if this is problematic please identify the issues and a proposed ending date of the contract.*** If you have any questions, please contact **NAME** at 919-**Number** or by e-mail to **e-mail address**. Thank you.

Sincerely,

Attachments G.S. 143C-6-21 through G.S. 143C-6-23
N.C. Administrative Code 09 NCAC 03M
Examples of State Auditors Reporting Forms

Reporting Requirements of N. C. General Statute 143C-6.23

Use these charts to determine GS 143C-6.23 reporting requirements.

Total Funds from All State Agencies	Reports Due (Download forms from http://www.ncauditor.net/NonProfitSite/forms.aspx)	Reports Due Date
\$1 - \$24,999	<ul style="list-style-type: none"> • Certification • State Grants Compliance Reporting Receipt of < \$25,000.* 	Within 6 months of entity's fiscal year end
\$25,000 - \$499,999	<ul style="list-style-type: none"> • Certification • State Grants Compliance Reporting Receipt of >= \$25,000 • Schedule of Receipts and Expenditures* • Program Activities and Accomplishments 	Within 6 months of entity's fiscal year end
\$500,000 or more	<ul style="list-style-type: none"> • Certification • State Grants Compliance Reporting Receipt of >= \$25,000 • Audit [A-133 Single Audit if >= \$500,000 in federal funds or Yellow Book Audit] • Schedule of Federal and State Awards (May be included in the audit) • Program Activities and Accomplishments 	Within 9 months of entity's fiscal year end

Reports Total Funds	Certification	State Grants Compliance Reporting	Schedule of Receipts and Expenditures	Audit with Schedule of Federal and State Awards	Activities and Accomplishments
\$1 - \$24,999	X	X			
\$25,000 - \$499,999	X	X	X		X
\$500,000 or more	X	X	X	X	X

Use this chart to determine where to send copies of each GS 143C-6.23 report.

<p><u>All</u> grantees must send one copy of each GS 143C-6.23 report to DHHS.</p>	<p>Mail to: DHHS Office of the Controller NonGov Audit Resolution 2019 Mail Service Center Raleigh, NC 27699-2019</p> <p>Or direct delivery to: 1050 Umstead Drive Raleigh, NC 27606</p>
<p>In addition, grantees receiving \$500,000 or more must <u>also</u> send a copy of all GS 143C-6.23 reports to the State Auditor.</p>	<p>Mail to: Office of the State Auditor GS 143C-6.23 Reporting 20601 Mail Service Center Raleigh, NC 27699-0601</p> <p>Or direct delivery to: 2 South Salisbury Street Raleigh, NC 27603</p>

* The A-133 audit may be substituted for the yellow book audit if required, or the schedule of receipts and expenditures if under \$500,000 in total state funds. However, the grantee will have to complete all the other required forms at its reporting level to be in compliance.

§ 143C-6-21. (Effective July 1, 2007) Payments to nonprofits.

Except as otherwise provided by law, an annual appropriation of one hundred thousand dollars (\$100,000) or less to or for the use of a nonprofit corporation shall be made in a single annual payment. An annual appropriation of more than one hundred thousand dollars (\$100,000) to or for the use of a nonprofit corporation shall be made in quarterly or monthly payments, in the discretion of the Director of the Budget. (2006-203, s. 3.)

§ 143C-6-22. (Effective July 1, 2007) Use of State funds by non-State entities.

(a) Disbursement and Use of State Funds. – Every non-State entity that receives, uses, or expends any State funds shall use or expend the funds only for the purposes for which they were appropriated by the General Assembly. State funds include federal funds that flow through the State Treasury.

(b) Compliance by Non-State Entities. – If the Director of the Budget finds that a non-State entity has spent or encumbered State funds for an unauthorized purpose, or fails to submit or falsifies the information required by G.S. 143C-6-23 or any other provision of law, the Director shall take appropriate administrative action to ensure that no further irregularities or violations of law occur and shall report to the Attorney General any facts that pertain to an apparent violation of a criminal law or an apparent instance of malfeasance, misfeasance, or nonfeasance in connection with the use of State funds. Appropriate administrative action may include suspending or withholding the disbursement of State funds and recovering State funds previously disbursed.

(c) Civil Actions. – Civil actions to recover State funds or to obtain other mandatory orders in the name of the State on relation of the Attorney General, or in the name of the Office of State Budget and Management, shall be filed in the General Court of Justice in Wake County. (2006-203, s. 3.)

§ 143C-6-23. (Effective July 1, 2007) State grant funds: administration; oversight and reporting requirements.

(a) Definitions. – The following definitions apply in this section:

- (1) "Grant" and "grant funds" means State funds disbursed as a grant by a State agency; however, the terms do not include any payment made by the Medicaid program, the Teachers' and State Employees' Comprehensive Major Medical Plan, or other similar medical programs.
- (2) "Grantee" means a non-State entity that receives State funds as a grant from a State agency but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.
- (3) "Subgrantee" means a non-State entity that receives State funds as a grant from a grantee or from another subgrantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

(b) Conflict of Interest Policy. – Every grantee shall file with the State agency disbursing funds to the grantee a copy of that grantee's policy addressing conflicts of interest that may arise involving the grantee's management employees and the members of its board of directors or other governing body. The policy shall address situations in which any of these individuals may directly or indirectly benefit, except as the grantee's employees or members of its board or other

governing body, from the grantee's disbursing of State funds, and shall include actions to be taken by the grantee or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. The policy shall be filed before the disbursing State agency may disburse the grant funds.

(c) No Overdue Tax Debts. – Every grantee shall file with the State agency or department disbursing funds to the grantee a written statement completed by that grantee's board of directors or other governing body stating that the grantee does not have any overdue tax debts, as defined by G.S. 105-243.1, at the federal, State, or local level. The written statement shall be made under oath and shall be filed before the disbursing State agency or department may disburse the grant funds. A person who makes a false statement in violation of this subsection is guilty of a criminal offense punishable as provided by G.S. 143C-10-1.

(d) Office of State Budget Rules Must Require Uniform Administration of State Grants. – The Office of State Budget and Management shall adopt rules to ensure the uniform administration of State grants by all grantor State agencies and grantees or subgrantees. The Office of State Budget and Management shall consult with the Office of the State Auditor and the Attorney General in establishing the rules required by this subsection. The rules shall establish policies and procedures for disbursements of State grants and for State agency oversight, monitoring, and evaluation of grantees and subgrantees. The policies and procedures shall:

- (1) Ensure that the purpose and reporting requirements of each grant are specified to the grantee.
- (2) Ensure that grantees specify the purpose and reporting requirements for grants made to subgrantees.
- (3) Ensure that State funds are spent in accordance with the purposes for which they were granted.
- (4) Hold the grantees and subgrantees accountable for the legal and appropriate expenditure of grant funds.
- (5) Provide for adequate oversight and monitoring to prevent the misuse of grant funds.
- (6) Establish mandatory periodic reporting requirements for grantees and subgrantees, including methods of reporting, to provide financial and program performance information. The mandatory periodic reporting requirements shall require grantees and subgrantees to file with the State Auditor copies of reports and statements that are filed with State agencies pursuant to this subsection. Compliance with the mandatory periodic reporting requirements of this subdivision shall not require grantees and subgrantees to file with the State Auditor the information described in subsections (b) and (c) of this section.
- (7) Require grantees and subgrantees to maintain reports, records, and other information to properly account for the expenditure of all grant funds and to make such reports, records, and other information available to the grantor State agency for oversight, monitoring, and evaluation purposes.
- (8) Require grantees and subgrantees to ensure that work papers in the possession of their auditors are available to the State Auditor for the purposes set out in subsection (i) of this section.
- (9) Require grantees to be responsible for managing and monitoring each project, program, or activity supported by grant funds and each subgrantee project, program, or activity supported by grant funds.

- (10) Provide procedures for the suspension of further disbursements or use of grant funds for noncompliance with these rules or other inappropriate use of the funds.
- (11) Provide procedures for use in appropriate circumstances for reinstatement of disbursements that have been suspended for noncompliance with these rules or other inappropriate use of grant funds.
- (12) Provide procedures for the recovery and return to the grantor State agency of unexpended grant funds from a grantee or subgrantee if the grantee or subgrantee is unable to fulfill the purposes of the grant.

(e) Rules Are Subject to the Administrative Procedure Act. – Notwithstanding the provisions of G.S. 150B-2(8a)b. rules adopted pursuant to subsection (d) of this section are subject to the provisions of Chapter 150B of the General Statutes.

(f) Suspension and Recovery of Funds to Grant Recipients for Noncompliance. – The Office of State Budget and Management, after consultation with the administering State agency, shall have the power to suspend disbursement of grant funds to grantees or subgrantees, to prevent further use of grant funds already disbursed, and to recover grant funds already disbursed for noncompliance with rules adopted pursuant to subsection (d) of this section. If the grant funds are a pass-through of funds granted by an agency of the United States, then the Office of State Budget and Management must consult with the granting agency of the United States and the State agency that is the recipient of the pass-through funds prior to taking the actions authorized by this subsection.

(g) Audit Oversight. – The State Auditor has audit oversight, with respect to grant funds received by the grantee or subgrantee, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee or subgrantee that receives, uses, or expends grant funds. A grantee or subgrantee must, upon request, furnish to the State Auditor for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of grant funds received by the grantee or subgrantee. The grantee or subgrantee must furnish any additional financial or budgetary information requested by the State Auditor, including audit work papers in the possession of any auditor of a grantee or subgrantee directly related to the use and expenditure of grant funds.

(h) Report on Grant Recipients That Failed to Comply. – Not later than May 1, 2007, and by May 1 of every succeeding year, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all grantees or subgrantees that failed to comply with this section with respect to grant funds received in the prior fiscal year.

(i) State Agencies to Submit Grant List to Auditor. – No later than October 1 of each year, each State agency shall submit a list to the State Auditor, in the format prescribed by the State Auditor, of every grantee to which the agency disbursed grant funds in the prior fiscal year. The list shall include the amount disbursed to each grantee and other information as required by the State Auditor to comply with the requirements of this section. (2006-203, s. 3.)

SUBCHAPTER 03M – UNIFORM ADMINISTRATION OF STATE GRANTS

SECTION .0100 - ORGANIZATION AND FUNCTION

09 NCAC 03M .0101 PURPOSE

Pursuant to G.S. 143-6.2(d), the rules in this Subchapter establish reporting requirements for non-State entities that receive, use, or expend State funds and ensure the uniform administration of State grants by all grantor State agencies, grantee, and subgrantees.

*History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.*

09 NCAC 03M .0102 DEFINITIONS

As used in this Subchapter:

- (1) "Agency" shall mean and include every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political subdivision of government.
- (2) "Audit" means an examination of records or financial accounts to verify their accuracy.
- (3) "Certification of Compliance" means a report provided by the grantor agency to the Office of the State Auditor that states that the grantee has met the reporting requirements established by this Subchapter and included a statement of certification by the grantor agency and copies of the submitted grantee reporting package.
- (4) "Compliance Supplement" refers to the North Carolina State Compliance Supplement, maintained by the State and Local Government Finance Division within the North Carolina Department of State Treasurer that has been developed in cooperation with agencies to assist the local auditor in identifying program compliance requirements and audit procedures for testing those requirements.
- (5) "Contract" means a legal instrument that is used to reflect a relationship between the agency, grantee, and subgrantee.
- (6) "Fiscal Year" means the annual operating year of the non-State entity.
- (7) "Financial Assistance" means assistance that non-State entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance. Financial assistance does not include amounts received as reimbursement for services rendered to individuals for Medicare and Medicaid patient services.
- (8) "Financial Statement" means a report providing financial statistics relative to a given part of an organization's operations or status.
- (9) "Grant" means financial assistance provided by an agency, grantee, or subgrantee to carry out activities whereby the grantor anticipates no programmatic involvement with the grantee or subgrantee during the performance of the grant.
- (10) "Grantee" has the meaning in G.S. 143-6.2(b).
- (11) "Grantor" means an entity that provides resources, generally financial, to another entity in order to achieve a specified goal or objective.
- (12) "Non-State Entity" has the meaning in G.S. 143-6.2(a).
- (13) "Public Authority" has the meaning in G.S. 159-7(10).
- (14) "Single Audit" means an audit that includes an examination of an organization's financial statements, internal controls, and compliance with the requirements of Federal or State awards.
- (15) "Special Appropriation" means a legislative act authorizing the expenditure of a designated amount of public funds for a specific purpose.
- (16) "State Funds" means any funds appropriated by the North Carolina General Assembly or collected by the State of North Carolina. State funds include federal financial assistance received by the State and transferred or disbursed to non-State entities. Both Federal and State funds maintain their identity as they are subgranted to other organizations.
- (17) "Subgrantee" has the meaning in G.S. 143-6.2(b).
- (18) "Unit of Local Government" has the meaning in G.S. 159-7(15).

History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.

SECTION .0200 - RESPONSIBILITIES OF GRANTEES AND SUBGRANTEES

09 NCAC 03M .0201 ALLOWABLE USES OF STATE FUNDS

Expenditures of State funds by any grantee shall be in accordance with the Cost Principles outlined in the Office of Management and Budget (OMB) Circular A-87. If the grant funding includes federal sources, the grantee shall ensure adherence to the cost principles established by the Federal Office of Management and Budget.

History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.

09 NCAC 03M .0202 GRANTEE RESPONSIBILITIES

A grantee that receives State funds shall ensure that those funds are utilized for the purpose of the grant and shall expend those funds in compliance with reporting requirements established by this Subchapter. Grantees shall:

- (1) Provide the information required by the grantor agency in order to comply with the procedures for disbursement of grant funds.
- (2) Maintain reports and accounting records that support the allowable expenditure of State funds. All reports and records shall be made available for inspection by both the awarding agency and the Office of the State Auditor for oversight, monitoring, and evaluation purposes.
- (3) Ensure that subgrantees comply with all reporting requirements of the grantee.

History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.

09 NCAC 03M .0203 SUBGRANTEE RESPONSIBILITIES

A subgrantee that receives State funds must ensure that those funds are spent for the purpose of the grant and shall expend those funds in compliance with reporting requirements established by this Subchapter. Subgrantees shall:

- (1) Provide the information required by the grantor agency in order to comply with the procedures for disbursement of grant funds.
- (2) Maintain reports and accounting records that support the allowable expenditure of State funds. All reports and records shall be available for inspection by both the awarding agency and the Office of the State Auditor for oversight, monitoring, and evaluation purposes.
- (3) Ensure that any subgrantees comply with all reporting requirement of the grantee.

History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.

09 NCAC 03M .0205 REPORTING THRESHOLDS AND FORMATS FOR GRANTEES AND SUBGRANTEES

(a) For the purposes of this Subchapter, there are three reporting thresholds established for grantees and subgrantees receiving State funds. The reporting thresholds are:

- (1) Less than \$25,000 – A grantee that receives, uses, or expends State funds in an amount less than twenty-five thousand dollars (\$25,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
 - (A) A certification completed by the grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted; and
 - (B) An accounting of the State funds received, used, or expended.All reporting requirements shall be filed with the funding agency within six months after the end of the grantee's fiscal year in which the State funds were received.
- (2) \$25,000 up to \$500,000 - A grantee that receives, uses, or expends State funds in an amount of at least twenty-five thousand (\$25,000) and up to five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:

- (A) A certification completed by the grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted;
- (B) An accounting of the State funds received, used, or expended; and
- (C) A description of activities and accomplishments undertaken by the grantee with the State funds.

All reporting requirements shall be filed with the funding agency within six months after the end of the grantee's fiscal year in which the State funds were received.

- (3) Greater than \$500,000 – A grantee that receives, uses, or expends State funds and in the amount greater than five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:

- (A) A certification completed by the grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted;
- (B) An audit prepared and completed by a licensed Certified Public Accountant for the grantee consistent with the reporting requirement of this Subchapter; and
- (C) A description of activities and accomplishments undertaken by the grantee with the State funds.

All reporting requirements shall be filed with both the funding agency and the Office of the State Auditor within nine months after the end of the grantee's fiscal year in which the State funds were received.

(b) Unless prohibited by law, the costs of audits made in accordance with the provisions of this rule are allowable charges to State and Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with cost principles outlined in the Office of Budget and Management (OMB) Circular A-87. The cost of any audit not conducted in accordance with this Subchapter is unallowable and shall not be charged to State or Federal grants.

(c) The audit requirements in this Subchapter do not replace a request for submission of audit reports by grantor agencies in connection with requests for direct appropriation of state aid by the General Assembly.

(d) Notwithstanding the provisions of this Subchapter, a grantee may satisfy the reporting requirements of Part (a)(3)(B) of this Rule by submitting a copy of the report required under the federal law with respect to the same funds.

(e) All grantees and subgrantees shall use the forms of the Office of State Budget and Management and of the Office of the State Auditor in making reports to the awarding agencies and the Office of the State Auditor.

History Note: Authority G.S. 143-6.2;
Eff. August 1, 2005.

SECTION .0300 - RESPONSIBILITIES OF THE OFFICE OF THE STATE CONTROLLER

09 NCAC 03M .0301 OFFICE OF THE STATE CONTROLLER RESPONSIBILITIES

All grantees receiving State funds shall enter into a disbursing agreement with the Office of the State Controller in accordance with G.S. 143-3 and G.S. 143-3.2.

History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.

SECTION .0400 - RESPONSIBILITIES OF AGENCIES

09 NCAC 03M .0401 AGENCY RESPONSIBILITIES

(a) An agency that receives State funds and disburses those funds to a grantee shall:

- (1) Notify each grantee, at the time the grant is made, of the purpose of the grant and the reporting requirements established in this Subchapter.
- (2) Prior to disbursing any grant funds:
 - (A) register with the Office of State Budget and Management's Community Resources Information System (CRIS); and
 - (B) follow the procedures for disbursement of grant funds.
- (3) Develop compliance supplement reports that describe standards of compliance and audit procedures to give direction to independent auditors. This report shall be provided to the State and Local

Government Finance Division with the North Carolina Department of State Treasurer for inclusion in the North Carolina State Compliance Supplement.

- (4) Provide the Office of the State Auditor with a listing of each grantee to which the agency disbursed State funds during the prior fiscal year by October 31st of each year including detailed information regarding the purpose and amount of the grant awarded.
 - (5) Provide the Office of State Budget and Management with a listing of every grantee to which the agency disbursed State funds during the prior fiscal year by January 31st of each year. This report shall be consistent with the disbursement report previously provided to the Office of the State Auditor including whether the grantee has complied with the reporting requirements established in this Subchapter.
 - (6) Hold grantees accountable for the expenditure of State funds by performing monitoring and oversight functions as required in this Subchapter.
 - (7) Ensure that funds are spent consistent with the purposes for which they were granted.
 - (8) Not disburse funds to grantees that are not in compliance with the reporting requirements for funds received during the prior fiscal year. Agencies shall consult with the Office of State Budget and Management in making this determination.
 - (9) Determine that the applicable reporting requirement has been met by the grantee and that all reports have been completed and submitted. For grantees receiving less than five hundred thousand dollars (\$500,000), the grantor agency shall complete a Certification of Compliance to the Office of the State Auditor.
 - (10) Conduct periodic monitoring reviews to ensure that State awards are used for authorized purposes in compliance with laws, regulations, and the provisions of grant agreements and that performance goals are achieved.
 - (11) Monitor compliance by grantees with all terms of a contract. Upon determination of noncompliance, the agency shall give the grantee 60 days written notice to come into compliance. After the 60-day period, the grantor agency shall:
 - (A) terminate the contract and take action to retrieve unexpended funds or unauthorized expenditures;
 - (B) suspend payments pending negotiation of a plan of corrective action; or
 - (C) offset future payments with the amount improperly spent.
- (b) Each non-State entity shall ensure that subgrantees have complied with the applicable provisions of this Subchapter. Failure to comply with such provisions shall be the basis for an audit exception.

History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.

SECTION .0500 - RESPONSIBILITIES OF THE OFFICE OF THE STATE AUDITOR

09 NCAC 03M .0501 OFFICE OF THE STATE AUDITOR RESPONSIBILITIES

Pursuant to the provisions of this Subchapter, the Office of the State Auditor shall:

- (1) Review submitted audit reports for those grantees receiving more than five hundred thousand dollars (\$500,000) in State funds to determine compliance with applicable reporting standards.
- (2) Maintain grantor agency submitted compliance data for grantees that receive State funds at levels below five hundred thousand dollars (\$500,000) demonstrating that the grantees have met the reporting requirements established by this Subchapter.
- (3) Notify disbursing agencies, by January 31st of each year, of all grantees for which no compliance data has been received.
- (4) Notify disbursing agencies of any material findings in the audits of grantees throughout the State fiscal year as reports are received.
- (5) Submit a list to the Office of State Budget and Management by January 31st of each year; of each grantee that received State funds in the prior fiscal year including the status of grantee compliance with the reporting requirements.

History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.

SECTION .0600 - RESPONSIBILITIES OF THE OFFICE OF STATE BUDGET AND MANAGEMENT

09 NCAC 03M .0601 OFFICE OF STATE BUDGET AND MANAGEMENT RESPONSIBILITIES

The Office of State Budget and Management shall:

- (1) Provide consultation to agencies as to whether grantees have complied with the required reporting requirements.
- (2) Consult with agencies to ensure that all grantees found in noncompliance have their funding ceased immediately upon that determination and ensure that no further funding will be provided until the grantee is in compliance.
- (3) Maintain a Suspension of Funding list readily accessible to any interested party that identifies any grantee found in noncompliance. This list shall serve as notice to other agencies that no further State grant funding may be provided to that grantee.
- (4) Maintain a Community Resources Information System database to record grant documentation required by this Subchapter.
- (5) In conjunction with the grantor agency, ensure reporting requirements have been met prior to the removal of any grantee from the Suspension of Funding listing. A grantee found in noncompliance may appeal to the Office of State Budget and Management for corrective action and reinstatement from the Suspension of Funding list. Once removed from the Suspension of Funding list, the grantee is eligible for current and future grants of State funds.
- (6) Take administrative action, when the Director of Budget finds that the grantee has spent or encumbered State funds for an unauthorized purpose, which includes reporting criminal violations to the Attorney General and the State Bureau of Investigation.
- (7) If the grant funds are a pass-through of funds granted by an agency of the United States, consult with the granting agency of the United States and the State agency that is the recipient of the pass-through funds prior to taking actions authorized by this Subchapter.

History Note: *Authority G.S. 143-6.2;*
Eff. July 1, 2005.

SECTION .0700 - CONTRACTING, MONITORING, AND OVERSIGHT

09 NCAC 03M .0701 GRANT DOCUMENTATION

In consideration of receiving State funds, the grantee shall sign a contract with the agency that shall contain the obligations of both parties. Prior to disbursing any State funds, each agency shall sign a contract with the grantee requiring compliance with the rules in this Subchapter. The requirements of this Rule shall also be applicable to all subgrantee relationships.

History Note: *Authority G.S. 143-6.2;*
Eff. July 1, 2005.

09 NCAC 03M .0702 SUBORDINATION OF OTHER CONTRACTS AGREEMENTS

No contract agreements shall act to eliminate or diminish the requirements contained in this Subchapter.

History Note: *Authority G.S. 143-6.2;*
Eff. July 1, 2005.

09 NCAC 03M .0703 REQUIRED CONTRACT PROVISIONS

Each contract agreement shall contain:

- (1) A specification of the purpose of the grant, services to be provided, objectives to be achieved, and expected results;
- (2) The Source of funds (federal, state, etc.) must be identified (CFDA number if applicable) and percentages included where applicable;
- (3) Account coding information sufficient to provide for tracking of the disbursement through the grantor accounting system;

- (4) Agreement to maintain all grant records for a period of five years or until all audit exceptions have been resolved, whichever is longer;
- (5) Names of all parties to the terms of the contract; for the grantee or subgrantee, including the employer/tax identification number, address, contact information, and the grantee/subgrantee fiscal year end date;
- (6) Signatures indicating authorization by all parties to the terms of the contract;
- (7) Duration of the contract, including the effective and termination dates;
- (8) Amount of the contract and schedule of payment(s);
- (9) Particular duties of the grantee;
- (10) Required reports and reporting deadlines;
- (11) Provisions for termination by mutual consent with 60 days written notice to the other party, or as otherwise provided by law;
- (12) A provision that the awarding of the grants subject to allocation and appropriation of funds to the agency for the purposes set forth in the contract;
- (13) Provision that requires reversion of unexpended funds to the agency upon termination of the contract;
- (14) A provision that requires compliance with the rules and reporting requirements outlined in this Subchapter including audit oversight by the Office of the State Auditor, the provision of access to the accounting records by both the funding entity and the Office of the State Auditor, and availability of audit work papers in the possession of any auditor of any recipient of State funding;
- (15) A clause addressing assignability and subcontracting including the following:
 - (a) the grantee or subgrantee is not relieved of any of the duties and responsibilities of the original contract; and
 - (b) the subgrantee agrees to abide by the standards contained in this Subchapter, and to provide all information to allow the grantee to comply with these standards.

History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.

09 NCAC 03M .0704 GRANT MONITORING AND EVALUATION

(a) Agencies shall ensure that oversight and monitoring of grantee and subgrantees occurs to prevent the misuse of State funds. Grantees and subgrantees shall manage the day-to-day operations of grant-supported activities. Grantors shall monitor grant-supported activities to assure compliance with applicable compliance requirements and that performance goals are being achieved. Grantee monitoring shall cover each program, function or activity. An evaluation must be performed with a comparison of actual accomplishments to the measurable objectives or outcomes established for the grant.

(b) Agencies shall:

- (1) Grant Identification - At the time the grant is made, the agency must provide information to the grantee including the required contract provisions as well as the applicable compliance requirements.
- (2) During the grant period, the agency shall monitor the grantee's use of State awards through reporting, site visits, regular contact, or other means to provide assurance that the grantee administers State funds in compliance with laws, rules, and the provisions of grant agreements and that performance goals are achieved.
- (3) Ensure that subgrantees expending five hundred thousand dollars (\$500,000) or more in State awards during the subgrantee's fiscal year have met the audit requirements of this Subchapter and that the required audits are completed within nine months of the end of the subgrantee's audit period; issue a management decision on audit findings within six months after receipt of the subgrantee's audit report; and ensure that the subgrantee takes timely corrective action on all audit findings.
- (4) Take action using sanctions when a subgrantee has demonstrated a continued inability or unwillingness to provide required audits.
- (5) Evaluate the impact of subgrantee activities on the agency's ability to comply with applicable State rules.
- (6) Evaluate the results and outcomes of the activities and accomplishments of the grantee or subgrantee to determine if results were achieved, the success of the activity, and whether the project activities should continue.

History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.

SECTION .0800 - SANCTIONS

09 NCAC 03M .0801 NONCOMPLIANCE WITH RULES

(a) When a non-State entity does not comply with the requirements of this Subchapter, the agency shall take measures to ensure that the requirements are met including:

- (1) communicating the requirements to the non-State entity;
- (2) requiring a response from the non-State entity upon a determination of noncompliance; and
- (3) suspend payments to the non-State entity until the non-State entity is in compliance.

(b) Prior to disbursing any State funds, the grantor agency shall verify that the grantee has complied with the reporting requirements for the most recent applicable reporting period. The agency shall consult with the Office of State Budget and Management during this verification process. A grantor agency shall not disburse funds to any grantee that has been determined by the grantor agency to be noncompliant with the reporting requirements established by this Subchapter.

(c) If the grantor agency finds that a non-State entity has used State funds for an unauthorized purpose, the grantor agency shall report such findings to the Attorney General, the Office of the State Budget and Management, the Office of the State Auditor, and the Office of the State Controller.

(d) If a grantee has not met the reporting requirements established by this Subchapter and fails to submit revised reports in accordance with a grantor agency determination letter, the grantor agency shall suspend further payments to the grantee and report the grantee to the Office of the State Auditor and the Office of the State Controller.

(e) Each grantor agency shall ensure that grantees and subgrantees have complied with the applicable provisions of this Subchapter.

History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.

09 NCAC 03M .0802 RECOVERY OF STATE FUNDS

(a) The Office of State Budget and Management shall be assisted by the Attorney General in the recovery and return of State funds in the event a grantee or subgrantee:

- (1) is unable to fulfill the obligations of the contractual agreement;
- (2) is unable to accomplish the purposes of the grant;
- (3) is noncompliant with the reporting requirements; or
- (4) has inappropriately used the State funds.

(b) Any apparent violations of a criminal law or malfeasance, misfeasance, or nonfeasance in connection with the use of State funds shall be reported by the Office of State Budget and Management to the Attorney General and State Bureau of Investigation.

History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.